

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the matter of)

Closed Captioning and Video Description)
of Video Programming)

DOCKET FILE COPY ORIGINAL
MM Docket No. 95-176

NOTICE OF INQUIRY

Responding:

Colorado Assistive Technology Project
DakotaLink (South Dakota Tech Act Project)
Georgia Tools for Life
Hawaii Assistive Technology Training and Service
Iowa Program for Assistive Technology
Louisiana Assistive Technology Access Network
Maine Consumer Information and Technology Training Exchange (CITE)
Maryland Technology Assistance Program
Massachusetts Assistive Technology Partnership
Minnesota System of Technology to Achieve Results (STAR) Program
Missouri Assistive Technology Project
New Hampshire Technology Partnership Project
Oklahoma ABLE Tech
Oregon Technology Access Through Life Needs
Pennsylvania's Initiative on Assistive Technology
Rhode Island Assistive Technology Access Project
Texas Assistive Technology Partnership
WisTech (Wisconsin Assistive Technology Program)

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To the Commission:

The Tech Act projects listed above are writing in response to your request for comments in the "Notice of Inquiry," FCC 95-484, in the above named proceeding released December 4, 1995.

The Commission seeks to assess the current availability, cost, and uses of closed captioning and video description, and to assess what further Commission actions may be appropriate to promote these services which are delivered by television broadcasters, cable operators, and other video programming providers.

The Tech Act projects are systems change projects funded under the National Institute on Disability and Rehabilitation Research, U.S. Department of Education. We promote increased access to assistive technology through consumer-responsive systems change

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activities. Closed captioning and video description are included as assistive technology services, and we comment on their use and need below.

[paragraph 3] Closed Captioning

The Commission describes the term "closed captioning." However, we strongly urge the Commission not to lock the regulations into the term "closed captioning," but to allow leeway for some captioning to be "opened." While we agree with the Commission's observation that some objections occur with open captioning, we also understand that captioning technology is becoming more flexible and accessible. Low-cost software, such as CaptionWorks(TM), is currently available to allow consumers access to virtually any video information. Therefore, we urge the FCC to widen its scope and broaden the regulations to use the word "captioning" in order to keep costs low, allow experimentation, and let consumers drive the system. We fear by restricting the regulations to only "closed captioning," producers and software developers will have fewer choices in making video programming accessible. For the remainder of these comments, we use the term "captioning" to designate all captioning, open and closed.

[paragraphs 11 and 12] Nature and benefits of captioning and video description and the number of people in this country who can benefit

Citing figures from the U.S. Census Bureau (i.e., 23 million individuals with hearing loss and 8 million individuals with visual loss), the Commission asks for comments re the validity of statistics of people with sensory disabilities. It is our understanding that the numbers of people with vision and hearing loss are actually much higher.

In the case of hearing impairment, data from the National Health Survey conducted by the National Center for Health Statistics (NCHS) under the U. S. Department of Health and Human Services, indicates that the prevalence of hearing loss has increased dramatically in the past 20 years. In 1971, data was first collected on prevalence and characteristics of persons with hearing trouble in the United States. By 1977, the increase in prevalence rate for individuals over three years of age "with reported hearing trouble," had risen 7.7 percent, and in 1991 the prevalence rate increased by 53.4 percent over the 1971 rate.

Unsurprisingly, the 1991 data indicates that there is a direct correlation between increasing age and the number of people with hearing loss. As the population ages, this correlation rises at an exponential, rather than incremental, rate. The curve showing the age-specific number of persons who cannot hear and understand normal speech starts at a rate of 2.7 (per 1,000 persons) for youth 3-17 years of age, rises slowly through ages 35-54, then rises sharply at 55 years of age until it reaches a rate of 150.1 (per 1,000 persons) for persons 75 years and older.

In addition, according to The Lighthouse National Survey on Vision Loss conducted by Louis Harris and Associates in 1994, one in six Americans 45 years of age and older

(representing an estimated 13.5 million Americans) reports some form of vision impairment. Of these, 53 percent report that their vision problem is severe and 47 percent report a moderate impairment. This figure does not include children and adults under age 45. As with hearing loss, the survey indicated that the proportion of adults reporting visual impairments increases dramatically with age. Given the growing number of older adults who experience acquired vision impairments and acquired hearing loss — coupled with that fact that the population of the United States overall shows an increase in longevity — it is highly probable that the market and demand for captioning and video description will increase exponentially in the 21st century.

Furthermore, captioning and video description can not only benefit people with visual and hearing impairments, but those who are learning English as a second language, illiterate children and adults, and people with cognitive impairments, figure-ground disorders, perceptual disorders, and dyslexia.

[paragraph 13] Current captioning availability

The NOI states that information is available to suggest that nearly 70 percent of broadcast network programming is closed captioned. We believe that assumption is inaccurate. By far, there is a paucity of captioning noted during the daytime and weekend hours, and a dearth of captioning at the local level, especially in local news programs, even when segments are copied from the broadcast network. Two examples:

- The national segments of "The Today Show" are closed captioned, but in most cities, the local news segments interspersed during "The Today Show," are not. How can people with hearing loss be alerted to emergencies, storms, and other natural disasters in their own cities and towns if the local news is not captioned?
- "NBC Nightly News" with Tom Brokaw is fully captioned, but when the local affiliate runs a segment from "NBC Nightly News," the captions appear infrequently on the screen, if at all.

To address these issues, we strongly urge the Commission to develop regulations that would (1) require local news programming to be captioned; and (2) make it unlawful for previously captioned material to be re-issued without captions.

[paragraph 14] Previously published programming

The Commission asks for comments on the extent of closed captioning of previously published or exhibited programs, such as reruns and movies that will be shown to television audiences again.

Relatively few previously published or exhibited programs are captioned when shown as re-runs, exceptions being "I Love Lucy," "Saturday Night Live," and a few others. Deaf viewers are severely restricted in the amount of captioning available for re-runs. It is worthy to note that the majority of deaf individuals in the United States are

people who grew up with normal hearing, had access to uncaptioned programs, and are now no longer able to enjoy re-runs of those shows without captions.

For the most part, prime-time television shows are fully captioned, but when they are copied and sold as tapes, the captions are missing. If, for example, a series of "National Geographic" programs is captioned and broadcast on WGBH, why is the same series sold in Blockbuster Video with no captions? Often, there are a number of different rights-holders to a film shown on TV which means that without going through a convoluted permissions process, there is no guarantee that captioned or video described programs will remain captioned or described when re-released.

We believe that standards should be developed and regulations must be enforced to guarantee that once a program or film is captioned or video described, all copies must be equally captioned or video described, and significant fiscal penalties should be levied on any parties who remove or who do not copy audio captioning or video descriptions from previously captioned or described material. Any revenues generated by such penalties should be used to enhance the funding pool for audio captioning and video description of public service programs.

[paragraph 20] Funding of closed captioning

We believe the current availability of closed captioning is directly related to the cost. As a result, the relatively high cost of captioning makes it less likely that local television programs will be captioned. However, the costs for captioning programs off-line can be reduced significantly with inexpensive and flexible software, such as CaptionWorks(TM). On-line or "live" captioning demands a higher level of stenocaptioner's skill, but again, costs can be driven downward by increased market demand, by more competition among captioning agencies, and by developing funding incentives.

A quick look at funding sources reveals that approximately 70 percent of captioning and video description is currently funded by the U.S. Department of Education (DOE). However, the current federal environment suggests that we should expect less dependence on federal dollars for public programs. It is important, therefore, that replacements for those funds be found.

We strongly believe that sponsors or advertisers should be required to fund a major part of the captioning or video description costs for programs which carry their advertising messages. We think it would be unfortunate if DOE were to continue to have to bear the major burden of funding for captioning and video description, when instead, producers, advertisers, and major media giants should be obligated to provide equal access. As a consequence of the Americans with Disabilities Act, Time-Warner, for example, has to make its offices around the country accessible to people with physical disabilities, and its workstations accessible to employees with disabilities. The Telecommunications Act of 1996 has the potential to ensure that Time-Warner also makes its cable programs and televised programming accessible by captioning and descriptive video.

On the other hand, we believe total reliance on private-sector companies to fund captioning and video description is unrealistic. While consumer preferences and spending habits will eventually force the private sector to create the most cost-effective methods of providing accessible media, funding incentives would make it far more likely that the private sector would do so with enthusiasm. Therefore, we urge the Commission to work with consumer groups to develop funding incentives — whether by an advertising set-aside, tax incentives, or by setting up a funding pool — for providing accessible media.

[paragraph 28] Exemptions

The Telecommunications Act of 1996 adopted language which stated that "the Commission may exempt by regulation programs, classes of programs, or services for which the Commission has determined that the provision of closed captioning would be economically burdensome to the provider or owner of such programming."

By issuing exemptions, the Commission is restricting access to television for people with sensory disabilities, as well as to the many other people who benefit from captioning. We believe that by a combination of efforts to educate producers as to the need for captioning, while simultaneously finding creative solutions to reduce costs and encouraging the development of new captioning and descriptive video technologies, it should not be necessary to exempt any producers from the requirement to caption and to video describe their products.

Thank you for providing the opportunity to comment on this vitally important issue.

Respectfully submitted,



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on behalf of:
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